Attorney's Docket No.: 21249-0014US1 / LDR/10/US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Beaurain et al. Art Unit: 3775

Serial No.: 10/533,846 Examiner: Andrew Yang

Filed: November 11, 2005 Conf. No.: 7881

Title : INTERVERTEBRAL DISC PROSTHESIS

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

## REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT

Please correct the Filing Receipt for the above-referenced application as follows:

- Include inventor Jean Huppert, 16 allée Chataignière, 42858 L'Etrat France; and
- Add a priority claim to French Application No. 0213833, filed November 5, 2002.

A copy of the original transmittal and the declaration filed reflecting inventor Jean Huppert and the claim to priority are attached.

Please note that this application entered the national stage in the United States from International Application PCT/IB03/04872 after compliance with 35 U.S.C. 371, and that the claim of priority to FR 0213833 was made during the pendency of the International Application within the time limit set forth in the PCT and the Regulations under the PCT. Attached is a copy of the first page of International Publication No. WO 2004/041129 showing the priority claim in the International Application.

Please supply a corrected Filing Receipt to the undersigned with respect to this application. A copy of the original Filing Receipt showing the desired changes is attached for your convenience.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby Certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: March 26, 2009

l'anya Spapoyi

Applicant: Beaurain et al. Serial No.: 10/533,846

: November 11, 2005 Filed

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: 2 of 2

No fee is believed to be due. If, however, there are any charges or credits, please apply them to Deposit Account No. 06-1050.

Respectfully submitted,

Attorney's Docket No.: 21249-0014US1 / LDR/10/US

Date: March 26, 2009

Steve Lauff Reg. No. 58,830

Fish & Richardson P.C. One Congress Plaza Suite 810 111 Congress Avenue Austin, TX 78701

Telephone: (512) 472-5070 Facsimile: (877) 769-7945

11069938.doc

## JC03 Rec'd PCT/PTO 0.4 M

PTO-1390 (Rev. 02-2005) trough 3/31/2007. OMB 0651-002 U.S. Patent and Trade mark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL LETTER TO THE UNITED STATES ATTORNEY'S DOCKET NUMBER **DESIGNATED/ELECTED OFFICE (DO/EO/US)** CONCERNING A SUBMISSION UNDER 35 U.S.C. 371 INTERNATIONAL APPLICATION NO. INTERNATIONAL FILING DATE TOBER 31,2003 118031048 TITLE OF INVENTION PROST ENTERVER APPLICANT(S) FOR DO/EO/US BE AURIN tac Ques Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information: 1. X This is a FTRST submission of Items concerning a submission under 35 U.S.C. 371. This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. The US has been elected (Article 31). 5. A copy of the International Application as filed (35 U.S.C. 371(c)(2)) a. S is attached hereto (required only if not communicated by the International Bureau). has been communicated by the International Bureau. is not required, as the application was filed in the United States Receiving Office (RO/US). 6. X An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). is attached hereto. has been previously submitted under 35 U.S.C. 154(d)(4). Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) are attached hereto (required only if not communicated by the International Bureau). have been communicated by the International Bureau. have not been made; however, the time limit for making such amendments has NOT expired. have not been made and will not be made. a. 🗀 An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). Items 11 to 20 below concern document(s) or information included: 11. L An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. 🛛 A preliminary amendment. An Application Data Sheet under 37 CFR 1.76. A substitute specification. 16. A power of attorney and/or change of address letter. A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825. 18. A second copy of the published International Application under 35 U.S.C. 154(d)(4). 19. A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).

20. Other items or Information: Return Poblard: International Search Report

This collection of Information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentially is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the Individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Step PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# JCO6 Rec'd PCT/PTO 04 MAY 2005

Approved for use through 3/31/2007, OMB 0851-0021

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMS control number, U.S. APPLICATION NO. 41 14000, 58 37 CER 1.5) INTERNATIONAL APPLICATION NO. ATTORNEY'S DOCKET NUMBER DR/10/US/AK159656 The following fees have been submitted CALCULATIONS 300 22. Examination fee

If International preliminary examination report prepared by USPTO and all dalms satisfy provisions of \$ 200 23. Search fee Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an 500 All other situations.....\$500 1000 TOTAL OF 21, 22 and 23 = Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof. **Total Sheets** Extra Sheets Number of each additional 50 or fraction RATE thereof (round up to a whole number) /50 = Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(h)). **CLAIMS** NUMBER FILED NUMBER EXTRA RATE Total claims \$ - 20 = \$ 50 Independent claims \$200 x MULTIPLE DEPENDENT CLAIM(S) (if applicable) \$360 TOTAL OF ABOVE CALCULATIONS = Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2. SUBTOTAL = 500 Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)). TOTAL NATIONAL FEE = 500 Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property 500 TOTAL FEES ENCLOSED = Amount to be 3 refunded: Amount to be \$ charged: A check in the amount of \$ to cover the above fees is enclosed. Please charge my Deposit Account No. 50-0897 in the amount of \$\_\_\_\_ A duplicate copy of this sheet is enclosed. c. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0897. A duplicate copy of this sheet is enclosed. Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status. SEND ALL CORRESPONDENCE TO: J. SCOTT DENKO ANDREWS KURTH LLP III CONGRESS AVE., SUITE 1700 AUSTIN, TX 78701 1,606

REGISTRATION NUMBER

NOV 1 1 2005 BY

PTO/S8/105 (2-98)
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# Declaration and Power of Attorney for Patent Application Déclaration et Pouvoirs pour Demande de Brevet

## French Language Declaration

En tent que l'inventeur nommé ci-après, je déclare par le présent acte que:	As a below named inventor, I hereby declare that:
Mon domicile, mon adresse postale et ma nationalité sont ceux figurant ci-dessous à côté de mon nom.	My residence, post office address and citizenship are as stated next to my name.
Je crois être le premier inventeur original et unique (si un seul nom est mentionné ci-dessous), ou l'un des premiers co-inventeurs originaux (si plusieurs noms sont mentionnés ci-dessous) de l'objet revendiqué, pour lequel une demande de brevet a été déposée concernant l'invention intitulée	I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled
Intervertebral Disk Prosthesis	Intervertebral Disk Prosthesis
et dont la description est fournie ci-joint à moins que la case suivante n'ait été cochée:  a été déposée le May 04, 2005  sous le numéro de demande des Etats-Unis ou le numéro de demande international PCT  ct modifiée le (le cas échéant).	the specification of which is attached hereto unless the following box is checked:  was filed on May 04, 2005  as United States Application Number or PCT International Application Number  and was amended on (if applicable).
Je déclare par le présent acte avoir passé en revue et compris le contenu de la description ci-dessus, revendications comprises, telles que modifiées par toute modification dont il aura été fait référence ci-dessus.	I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.
Je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, § 1.56 du Code fédéral des réglementations.	I acknowledge the duty to disclose information which is material to patentability as defined in Tale 37, Code of Federal Regulations, § 1.56.

[Page 1 of 5]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the Individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

## French Language Declaration

Je revendique par le présent acte avoir la priorité étrangère, en vertu du Titre 35, § 119(a)-(d) ou § 365(b) du Code des Etats-Unis, sur toute demande étrangère de brevet ou certificat d'inventeur ou, en vertu du Titre 35, § 365(a) du même Code, sur toute demande internationale PCT désignant au moins un pays autre que les Etats-Unis et figurant ci-dessous et, en cochant la case, j'ai aussi indiqué ci-dessous toute demande étrangère de brevet, tout certificat d'inventeur ou toute demande internationale PCT ayant une date de dépôt précédant celle de la demande à propos de laquelle une priorité est revendiquée.

Prior foreign application(s)
Demands(s) de brevet antéricure(s)
0213833 France
(Number) (Country)
(Numéro) (Pays)

(Number) (Country)
(Number) (Country)
(Numéro) (Pays)

Je revendique par le présent acte tout bénéfice, en vertu du Titre 35, § 119(e) du Code des Etats-Unis, de toute demande de brevet provisoire effectuée aux États-Unis et figurant ci-dessous.

(Application No.)
(N° de demande)
(Date de dépôt)
(Application No.)
(N° de demande)
(Cate de dépôt)
(Date de dépôt)

le revendique par le présent acte tout bénéfice, en vertu du Titre 35, § 120 du Code des Etats-Unis, de toute demande de brevet effectuée aux Etats-Unis, ou en vertu du Titre 35, § 365(c) du même Code, de toute demande internationale PCT désignant les Etats-Unis et figurant ci-dessous et, dans la mesure où l'objet de chacune des revendications de cette demande de brevet n'est pas divulgué dans la demande antérieure américaine ou internationale PCT, en vertu des dispositions du premier paragraphe du Titre 35, § 112 du Code des Etats-Unis, je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dues le Titre 37, § 1.56 du Code fédéral des réglementations, dont j'ai pu disposer entre la date de dépôt de la demande antérieure et la date de dépôt de la demande antérieure et la date de dépôt de la demande nationale PCT de

la présente demande:
PCT/(B2003/004872 31 October 2003
(Application No.)
(Nº de demande) (Filing Date)
(Application No.)
(Nº de demande) (Filing Date)
(Date de dépôt)

Je déclare par le présent acte que toute déclaration ci-incluse est, à ma connaissance, véridique et que toute déclaration formulée à partir de renseignements ou de suppositions est tenue pour véridique; et de plus, que toutes ces déclarations ont été formulées en sachant que toute fausse déclaration volontaire ou son équivalent est passible d'une amende ou d'une incarcération, ou des deux, en vertu de la Section 1001 du Titre 18 du Code des Etats-Unis, et que de telles déclarations volontairement fausses risquent de compromettre la validité de la demande de brevet ou du brevet délivré à partir de celle-ci.

I hereby claim foreign priority under Title 35, United States Code, § 119(a)-(d) or § 365 (b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below, and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Priority Claimed
Droit de priorité revendiqué

05 Navember 2002

(Day/Month/Year Filed) (Jour/Mois/Année de dépôt)

(Day/Month/Year Filed) (Jour/Mois/Année de dépôt)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

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I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the lirst paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

WIPO

Pending

(Status) (patented, pending, abandoned) (Statut) (breveté, en cours d'examen, abandonné)

(Status) (patented, pending, abandoned) (Statut) (breveté, en cours d'examen, abandonné)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

French Language Declaration	
POUVOIRS: En tant que l'inventeur cité, je désigne par la présente l'(les) avocnt(s) et/ou agent(s) suivant(s) pour qu'ils poursuive(nt) la procédure de cette demande de brevet et traite(nt) toute affaire s'y rapportant avec l'Office des brevets et des marques: (mentionner le nom et le numéro d'enregistrement).	POWER OF ATTORNEY: As a named inventor, I hereb appoint the following attorney(s) and/or agent(s) to prosecute the application and transact all business in the Patent and Trademar Office connected therewith: (list name and registration number
J. Scott Denko, Reg. No. 37,606	J. Scott Denko, Reg. No. 37,606
Adresser toute correspondance à: Andrews Kurth LLP 111 Congress Avc., Suite 1700 Austin, Texas 78701	Send Correspondence to: Academs Kurth LLP LLI Congress Ave., Suits 1700 Austin, Texas 78701
Adresser tout appel téléphonique à: (nom et numéro de téléphone) J. Scott Denko	Direct Telephone Calls to: (name and telephone number)  J. Scott Denko
512-320-9259	512-320-9259
Nom complet de l'unique ou premier inventeur	Full name of sole or first inventor Jacques Beaurain
Signature de l'inventeur Date l'h os los	Inventor's signature ff Date U. of . 205
Domicile Impasse du Milleraio, 21910 Sauton la Chapelle, France	Residence Impasse du Milloraio, 21910 Sauton la Chapelle, France
Nationalité French	Citizenship French
Adresse postale Impasse du Milleraie, 21910 Saulon la Chapette, France	Post Office Address Impose du Millernic, 21910 Saulon la Chapelle, France
Nom complet du second co-inventeur, le cas échéant Farentes	Full name of second joint inventor, if any Jean-Marc Fuentes
Signature du second inventeur Date	Second Inventor's signature Date
Domicile	Residence
Nationalité	Citizenship
Adresse postale	Post Office Address

(Fournir les mêmes renseignements et la signature de tout inventeur supplémentaire.)

subsequent joint inventors.)

(Supply similar information and signature for third and

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J. Scott Denko	J. Scott Denko
512-320-9259	512-320-9259
Nom complet de l'unique ou premier inventeur Jacques Beaurain	Full name of sole or first inventor Jacques Beaurain
Signature de l'inventeur Date	Inventor's signature Date
Domicile Impasse du Milleraie. 21910 Sauton lu Chapelle, France	Residence Imparse du Milleraio, 21910 Saulon la Chapelle, France
Nationalité French	Cilizenship French
Adresse postale Imposso du Millemia, 21910 Saulon la Chapelle, France	Post Office Address Impasse du Milleraie, 21910 Saulon la Chapelle, France
Nom complet du second co-inventeur, le cas échéant Fuences	Full name of second joint inventor, if any Jean-Marc Fuentes
Signature du second inventour / Date 26/05	Second Inventor's signature W Date 26/05.
Domicile Le Pietre de Mesanges	Residence le Pi quet : alles les meranges 34620 Grabiels
Nationalité Française 34670 grabble	Citizenship Freuch
Adresse postale le Milleusere. 22 bled Penelope 34 960 Monttellin War 2	Post Office Address le ryclemani 7.10 lea Penelop 34 960 monhellier Cottas
34 960 Mont Fellise War ?	34960 montpellier letters
(Fournir les mêmes renseignements et la signature de tout co- inventeur supplémentaire.)	(Supply similar information and signature for third and subsequent joint inventors.)

[Page 3 of: 5]

French Language Declaration	
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J. Scott Denko	J. Scott Denko
512-320-9259	512-320-9259
	<u> </u>
Nom complet de l'unique ou thid inventeur Jean-Marc Vital	Full name of third interntor Jean-Marc Vital
Signature de l'inventeur Date 255/35	Inventor's signature. Date 25/5/35
Domicile 7 Revolutionery F	Residence 7 Rud d'Ennerg 33200 ROZDZAVA PRANYCE
Nationalité FRANÇAISE	Citizenship FRENCH. TW
Adresse possele Month of Chip od	Post Office Address TRAPADE HOSPITAL  JORDANALL
, ABANCE	
Nom complet du fourth co-inventeur, le cas échéant Thierry Dufou	Full name of fourth joint inventor, if any Thieny Dufour
Signature du Rourth inventeur Date	fourth Inventor's signature Date .
Domicile 22 rue des Ormes 45150 Olivet, France	Residence 22 rue des Ormes 45160 Olivet, France
Nationalité French	Citizenship French
Adresse postale 22 rue des Ormes 45150 Olivet, France	Post Office Address 22 rue des Omnes 45160 Olivet, France
(Fournir les mêmes reuseignements et la signature de tout co- inventeur supplémentaire.)	(Supply similar information and signature for third and subsequent joint inventors.)

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d'enregistrement). J. Scott Denko, Reg. No. 37,606	J. Scott Denko, Reg. No. 37,606
Adresser toute correspondance å: Andrews Kurth LLP 111 Congress Ave., Svite 1700 Austin, Texas 78701	Send Correspondence to: Andrews Kurth LLP 111 Congress Avo., Suite 1700 Austin, Texas 78701
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J. Scott Denko	J. Scott Denko
512-320-9259	512-320-9259
Nom complet de l'unique ou third inventeur Jean-Marc Vital	Full name of third inventor Jean-Marc Vital
Signature de l'inventeur Date	Inventor's signature Date
Domicile	Residence
Nationalité	Citizenship
Adresse postale	Post Office Address
Nom complet du fourth co-inventeur, le cas échéant Thierry Dufou	
Signature du fount inventeur 11 Date 27/01/200;	fourth Inventor's signatures Date 27 61705
Domicile 22 rue des Ormes / T 45150 Olivet, Françe	Residence 22 rue des Ormes 45160 Olivet, France
Nationalité French	Citizenship French
Adresse postale 22 rue des Ormes 45160 Olivet, France	Post Office Address 22 rue des Ormes 45 160 Olivet, France
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Adresser toute correspondance à:	Send Correspondence to: Andrews Kurth LLP
111 Congress Ave., Suite 1700 Austin, Texas 78701	111 Congress Ave., Suite 1700
Adresser tout appel téléphonique à:	Austin, Texas 78701 Direct Telephone Calls to:
(nom et numéro de téléphone)	(name and telephone number)
J. Scott Denko	J. Scott Denko
512-320-9259	512-320 <del>-9</del> 259
	· · · · · · · · · · · · · · · · · · ·
Nom complet de l'unique ou fissh inventeur Jean Huppert	Full name of : fifth inventor Jean Huppert
Signature de l'inventeur Date os. 26.205	Inventor's signature April Date 65.26.205
Domicile 16, allee de la Chiatoignere 42858 L'Errat, FRANCE	Residence 16, alloe de la Chistalignere 42858 L'Errat, FRANCE
Nationalité French	Citizenship French
Adresse postale 16, allue de la Chjamignere 42858 L'Etral, FRANCE	Post Office Address 16, allee de la Chiptaignere 42358 L'Etrar, FRANCE
	Jean-Marc Fuentes
Nom complet du co-inventeur, le cas échéant	Full name of joint inventor, if any
Signature du inventeur Date	: Inventor's signature Date
Domicile .	Residence
Nationalité	Citizenship
Adresse postale	Post Office Address
(Fournir les mêmes renseignements et la signature de tout co- inventeur supplémentaire.)	(Supply similar information and signature for third and subsequent joint inventors.)

## (12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

# (19) World Intellectual Property Organization

International Bureau



## 

## (43) International Publication Date 21 May 2004 (21.05.2004)

**PCT** 

# (10) International Publication Number WO 2004/041129 A1

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A61F 2/44

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English

(26) Publication Language:

English

(30) Priority Data:

0213833

5 November 2002 (05.11.2002) F

(71) Applicant (for all designated States except US): LDR MEDICAL [FR/FR]; 4, Rue Marie Curie, F-10430 Rosières-Pres-Troyes (FR).

(72) Inventors; and

(75) Inventors/Applicants (for US only): BEAURIN, Jacques [FR/FR]; Impasse du Milleraie, F-21910 Saulon La Chapelle (FR). FUENTES, Jean-Marc [FR/FR]; Le Piquet, Allée des Mésanges, F-34790 Grabels (FR). VITAL, Jean-Marc [FR/FR]; Centre Hospitalier Pellegrin, Place Amélie Raba Léon, F-33076 Bordeaux Cedex (FR). DUFOUR, Thlerry [FR/FR]; 22, rue des Ormes,

F-45160 Olivet (FR). HUPPERT, Jean [FR/FR]; 16, allée Chataignière, F-42580 L'Etrat (FR).

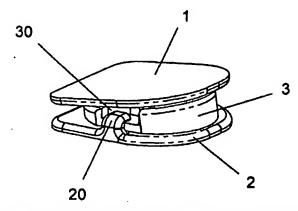
- (74) Agent: DEBAY, Yves; Cabinet Debay, 126, Elysée 2, F-78170 La Celle Saint Cloud (FR).
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(54) Title: INTERVERTEBRAL DISK PROSTHESIS



(57) Abstract: The present invention relates to an intervertebral disk prosthesis comprising at least three parts including a first plate, referred to as the upper plate (1), a second plate, referred to as the lower plate (2), and a core (3), the upper surface of the core (3) being in contact with at least part (10) of the lower surface of the upper plate (1) and the lower surface of the core (3) being in contact with at least part of the upper surface of the lower plate (2), and the lower plate (1) being movable at least with respect to the core (3), characterised in that there are cooperation means between the lower to plate (2) and the core (3), so as to limit or eliminate translation movements of the core (3) with respect to the lower plate (2) along an axis substantially parallel to the lower plate (2), and to limit or eliminate rotation movements of the core (3) with respect to the lower plate (2), around an axis substantially perpendicular to the lower plate (2), the planes passing

through the upper (1) is and lower (2) plates forming a substantially constant angle.



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Andrews Kurth 111 Congress Avenue Suite 1700 Austin, TX 78701

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Applicant(s)

Jacques Beaurain, Saulon La Chapelle, FRANCE; Jean-Marc Fuentes, Grabels, FRANCE: Jean-Marc Vital, Bordraux, FRANCE; Thierry Dufour, Oliver, FRANCE; and Jean Huppert, L'Etrat, FRANCE.

Power of Attorney:

J Denko--37606

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\*\* SMALL ENTITY \*\*

Title

### Intervertebral disk prosthesis

**Preliminary Class** 

623

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